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HAMILTON & TERRILE, LLP			WOZNIAK, JAMES S	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,004

Applicant(s)

SMOLENSKI ET AL.

Examiner

James S. Wozniak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05/14/2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Double Patenting

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. **Claims 1-65** are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-65 of copending Application No. 09/858,281. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Specification

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

4. **Claim 65** is objected to because it includes reference characters that are not enclosed within parentheses (*data system, 6, and voice user interface, 27*).

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 1, 3, 4, 6, 8-12, 14-17, 19-21, 23, 24, 26, 28-32, 34-37, 39-44, 46-48, 51-53, 56-62, 64, and 65** are rejected under 35 U.S.C. 102(e) as being anticipated by Marx et al (*U.S. Patent: 6,173,266*).

With respect to **Claims 1, 21, and 41**, Marx recites:

A voice integration platform and method that provides for integration with a data system that includes stored data, the voice integration platform comprising:

One or more generic software components, the generic software components being configured to enable development of a specific voice user interface, the specific voice user interface being designed to interact with the data system to present the stored data to a user (*multiple software modules used to create an interactive speech application, Col. 3, Lines 28-39, and Col. 4, Lines 21-33*).

With respect to **Claims 3, 23, and 43**, Marx discloses:

A voice integration platform and method, wherein the generic software components include a component that is configured to facilitate integration with a Web application server (*interactive speech application for use with a host computer over a network, Col. 6, Lines 1-8, software implementation, Col. 6, Lines 14-16, and dialogue modules for handling input and output audio signals, Col. 6, Lines 61-64*).

With respect to **Claims 4, 24, and 44**, Marx recites:

A voice integration platform and method, wherein the generic software components include a component that is configured to facilitate integration with a database stored in a memory (*database components, Col. 7, Lines 36-41*).

With respect to **Claims 6, 26, and 46**, Marx discloses:

A voice integration platform and method, wherein the generic software components include a component that is configured to facilitate integration with a customer call center *(dialogue module implemented in a service that uses an identifier such as an account number or user ID, Col. 14, Lines 28-34)*.

With respect to **Claims 8 and 28**, Marx recites:

A voice integration platform and method, wherein the generic software components include a generic tools component *(developer tools for viewing and editing dialogue modules, Col. 17, Line 55- Col. 18, Line 3)*.

With respect to **Claims 9, 29, and 51**, Marx discloses:

A voice integration platform and method, wherein the generic software components include a generic infrastructure software component *(development software used to connect dialogue modules in order to define an interactive speech application call flow, Col. 3, Lines 34-39)*.

With respect to **Claims 10, 30, and 52**, Marx discloses:

A voice integration platform and method, wherein the generic infrastructure software component includes a generic domain controller component *(dialogue module instances customized using parameters implemented by a developer for determining applications for which a dialogue is applicable, Col. 6, Lines 53-60)*.

With respect to **Claims 11, 31, and 53**, Marx recites:

A voice integration platform and method, wherein the generic software components include a generic personalization software component (*user specific recognition algorithms, Col. 14, Line 35- Col. 15, Line5*).

With respect to **Claims 12 and 32**, Marx discloses:

A voice integration platform and method, wherein the generic software components include a generic applications software component (*applications in a service execution environment enabled by a dialogue module, Col. 7, Line 56- Col. 8, Line 18*).

With respect to **Claims 14, 34, and 56**, Marx recites:

A voice integration platform and method, wherein the generic applications software further comprises a generic notification component (as per Page 9 of the specification) (*termination condition (timeout or error) that transfers a caller to a live operator, Col. 10, Lines 34-40*).

With respect to **Claims 15, 35, and 57**, Marx discloses:

A voice integration platform and method, wherein the generic applications software components include a generic personalized dialogues software component (*response to consecutive recognition errors using a natural dialogue prompt that changes with respect to error instances, Col. 20, Lines 42-57*).

With respect to **Claims 16, 36, and 58**, Marx recites:

A voice integration platform and method, wherein the generic personalized dialogs software component further comprises a generic error-trapping random prompt pool software

component (*varied response to an error instance in the form of a system prompt, Col. 13, Lines 40-58*).

With respect to **Claims 17, 37, and 59**, Marx discloses:

A voice integration platform and method, wherein the generic personalized dialogs software component further comprises a generic list browse software *component (menu module that dictates a list of appropriate responses to a user through a prompt, Col. 15, Lines 58-62)*.

With respect to **Claims 19, 39, and 61**, Marx recites:

A voice integration platform and method, wherein the generic software components include a generic content management software component (*viewing and editing the content of configuration libraries, Col. 18, Lines 10-15*).

With respect to **Claims 20 and 40**, Marx discloses:

A voice integration platform and method, wherein the generic software components include a generic integration software component (*dialogue modules for providing an interface between a service and speech components to enable the system to handle input and output audio signals, Col. 6, Lines 61-64*).

Claim 42 contains subject matter similar to Claims 15 and 41, and thus, is rejected for the same reasons.

With respect to **Claims 47 and 65**, Marx recites:

A voice integration platform, wherein the means for developing a specific voice user interface further comprises means for allowing the user of a local device to interact with the data system via voice communication (*dialogue modules for handling input and output audio (speech) signals, Col. 6, Lines 61-64, and Fig. 4, Elements 430 and 460*).

With respect to **Claim 48**, Marx discloses:

A voice integration platform, wherein the means for developing a specific voice user interface further comprises means for monitoring software code (*means for a developer to view various code parameters within a dialogue module, Col. 17, Line 61- Col. 18, Line 3*).

With respect to **Claim 60**, Marx discloses:

A voice integration platform, wherein the means for incorporating natural language concepts further comprises means for providing scenario-driven personalization (*response to consecutive recognition errors using a natural dialogue prompt that changes with the consecutive error amount, Col. 20, Lines 42-57*).

With respect to **Claim 62**, Marx recites:

A voice integration platform, wherein the means for developing a specific voice user interface further comprises means for enhanced management of audio content (*means for allowing a developer to view, create, and edit recognition vocabulary and templates, Col. 17, Line 61- Col. 18, Line 3*).

With respect to **Claim 64**, Marx discloses:

A voice integration platform, wherein the means for developing a specific voice user interface further comprises means for providing templates for the creation of dialogs (*means for allowing a developer to view, create, and edit recognition vocabulary and templates, Col. 17, Line 61- Col. 18, Line 3*).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 2, 7, 22, and 27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Marx et al in view of Hedin et al (*U.S. Patent: 6,185,535*).

With respect to **Claims 2, 7, 22, and 27**, Marx teaches the speech application development system and method that can be used to create a user-customized interactive speech application featuring adaptive natural dialogue prompts as applied to Claims 1, 15, 21, and 35. Marx does not teach the use of a generic voice gateway, however, Hedin recites:

The generic software components include a generic voice gateway (*gateway used for converting text to speech, Col. 5, Line 55- Col. 6, Line 5*).

Marx and Hedin are analogous art because they are from a similar field of endeavor in speech-controlled systems. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to combine the use of a voice gateway for converting text to speech as taught by Hedin with the speech application development system and method that can be used to create a user-customized interactive speech application featuring adaptive natural dialogue prompts as taught by Marx to provide a means of presenting information via a terminal which has a low display capacity through text to speech synthesis at a voice gateway (*Hedin, Col. 5,*

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Line 61- Col. 6, Line 4). Therefore, it would have been obvious to combine Hedin with Marx for the benefit of obtaining a means of presenting information to a terminal with limited display capacity through speech synthesis at a voice gateway, to obtain the invention as specified in Claims 2, 7, 22, and 27.

9. **Claims 5, 13, 18, 25, 33, 38, 45, 54, and 55** are rejected under 35 U.S.C. 103(a) as being unpatentable over Marx et al in view of Douglas (*U.S. Patent: 5,812,977*).

With respect to **Claim 5, 25, and 45**, Marx teaches the speech application development system and method that can be used to create a user-customized interactive speech application as applied to Claims 1, 21, and 41. Marx does not specifically suggest system and method use with an automated banking system, however, Douglas discloses:

A voice integration platform and method, wherein the generic software components include a component that is configured to facilitate integration with an automated banking system (*speech command control method for use with a banking application, Col. 9, Lines 47-49, and Table 1*).

Marx and Douglas are analogous art because they are from a similar field of endeavor in speech-controlled systems. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to combine the speech command method for use with a banking application as taught by Douglas with the speech application development system and method that can be used to create a user-customized interactive speech application as taught by Marx since the speech application development system taught by Marx can be used to create any type of user specified speech application, specifically, a banking application as taught by Douglas, in

order to increase method compatibility and functionality by applying it to a well-known and practical banking application. Therefore, it would have been obvious to combine Douglas with Marx for the benefit of obtaining a speech application development system and method for use with a banking application, to obtain the invention as specified in Claims 5, 25, and 45.

With respect to **Claims 13, 33, and 54**, Marx teaches the speech application development system and method that can be used to create an interactive speech application comprising multiple speech-enabled functions, as applied to Claim 12. Marx does not specifically suggest system use with an email application, however Marx does disclose the use of a text-to-speech system for generating prompts, Col. 7, Lines 9-16, and Douglas discloses:

A voice integration platform and method, wherein the generic software component further comprises a generic email component (*speech command control method for use with an email application, "sending an email," Table 1*).

Marx and Douglas are analogous art because they are from a similar field of endeavor in speech-controlled systems. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to combine the speech command method for use with an email application as taught by Douglas with the speech application development system and method that can be used to create a user-customized interactive speech application as taught by Marx since the speech application development system taught by Marx can be used to create any type of user specified speech application, specifically, an email application as taught by Douglas, in order to increase method compatibility and functionality by applying it to a well-known and practical email application. Therefore, it would have been obvious to combine Douglas with

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Marx for the benefit of obtaining a speech-enabled email application, to obtain the invention as specified in Claims 13, 33, and 55.

With respect to **Claims 18 and 38**, Marx teaches the speech application development system and method that can be used to create a user-customized interactive speech application as applied to Claims 1 and 21. Marx does not specifically suggest method use with a scheduling application; however, Douglas discloses:

A voice integration platform and method, wherein the generic software component further comprises a generic scheduling software component (*speech command control method for use with a scheduling application, Col. 8, Line 47, and Table 1*).

Marx and Douglas are analogous art because they are from a similar field of endeavor in speech-controlled systems. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to combine the speech command method for use with a scheduling application as taught by Douglas with the speech application development system and method that can be used to create a user-customized interactive speech application as taught by Marx since the speech application development system taught by Marx can be used to create any type of user specified speech application, specifically, a scheduling application as taught by Douglas, in order to increase method compatibility and functionality by applying it to a well-known and practical scheduling application. Therefore, it would have been obvious to combine Douglas with Marx for the benefit of obtaining a speech-enabled scheduling application, to obtain the invention as specified in Claims 18 and 38.

Claim 55 contains subject matter similar to Claims 13, 33, and 55 and thus is rejected for similar reasons. Also, it would have been obvious to one of ordinary skill in the art, at the time

of invention, to utilize the speech enabled email application taught by Douglas to receive an email (in addition to sending) since receiving an email is an obvious variation of the email application taught by Douglas that can further produce speech from text using the text-to-speech engine taught by Marx, Col. 7, Lines 9-16 to recite an email to a user thus, providing additional system compatibility and usability.

10. **Claims 49, 50, and 63** are rejected under 35 U.S.C. 103(a) as being unpatentable over Marx et al.

With respect to **Claim 49**, Marx teaches the speech application development system and method that can be used to create a user-customized interactive speech application as applied to Claim 41. Marx does not specifically disclose a means to test software code, however, it would have been obvious to one of ordinary skill in the art, at the time of invention, to utilize code testing means in a speech application development platform, since it is well known to test software before implementation in order to ensure that an application operates as desired.

With respect to **Claim 50**, Marx the speech application development system and method that can be used to create a user-customized interactive speech application as applied to Claim 41. Marx does not specifically suggest a means for debugging software code, however Marx does teach the means for a developer to modify various code parameters within a dialogue module (*Col. 17, line 61- Col. 18, Line 3*), and it would have been obvious to one of ordinary skill in the art, at the time of invention, to utilize this modification capability to correct code errors to provide a well-known means of developing a reliable and properly functioning interactive speech application.

With respect to **Claim 63**, Marx teaches the speech application development system and method that can be used to create a user-customized interactive speech application as applied to Claim 41. Marx does not specifically suggest the generation of a meta-tag for information received from an audio feed, however, it would have been obvious to one of ordinary skill in the art, at the time of invention, to utilize meta-tag generation to provide a user with the subject matter of a requested audio file so that a user can validate that the requested information is correct, thus saving bandwidth by transmitting only correctly requested audio data.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Ladd et al (*U.S. Patent: 6,385,583*)- discloses an information access system containing a gateway server and utilizing markup language, which is capable of being utilized to develop interactive speech applications.
- Dodrill et al (*U.S. Patent: 6,578,000*)- teaches a method for developing voice enabled web applications defined by markup language.
- Cohen et al (*US2002/0164000*)- discloses a system for creating an interactive voice response application featuring tags indicative of the subject matter of a link, personalized prompts, that ability to store user preferences as bookmarks, and natural language interpretation means.

- Hanrieder (*"Integration of a Mixed-Initiative Dialogue Manager into Commercial IVR Platforms," 1998*)- teaches an IVR dialogue design program capable of being integrated within a call center.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Wozniak whose telephone number is (703) 305-8669 and email is James.Wozniak@uspto.gov. The examiner can normally be reached on Mondays-Fridays, 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Talivaldis Ivars Smits can be reached at (703) 306-3011. The fax/phone number for the Technology Center 2600 where this application is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the technology center receptionist whose telephone number is (703) 306-0377.

James S. Wozniak
4/14/04



DORIS H. TO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600